

REMARKS

Rejection under 35 U.S.C. § 102(b)

Claims 1-20 are currently pending. Claims 1, 10, and 20 have been amended in order to further clarify the claimed subject matter. No new matter has been added by the foregoing amendment.

The following remarks only address the patentability of the independent claims (1, 10, and 20) over the cited art. As the Examiner appreciates, should the independent claims be patentable over the cited art, the claims depending therefrom must also be patentable.

Anticipation of a claim requires a showing that each and every limitation of the claim is found in a single prior art reference. MPEP § 2131, citing *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987). Furthermore, to anticipate a claim, "a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter." *PPG Indus. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1566 (Fed. Cir. 1996), *aff'd, reh'g denied, reh'g en banc denied*, 156 F.3d 1351 (Fed. Cir. 1998). Court decisions applying this standard are legion.

Schneier fails to disclose the limitation of "wherein the first device and the second device are co-located" as recited in each of Applicant's independent claims 1, 10, and 20. Rather, Schneier describes sending an encryption key by mail or overnight delivery, which indicates that the devices are not co-located. Accordingly, Applicant respectfully requests that the rejection of claims 1, 10, and 20 under 35 U.S.C. § 102(b) be withdrawn.

Rejection under 35 U.S.C. § 103

Various claims depending from claim 1, 10, or 20 were rejected under 35 U.S.C. § 103(a). In each such rejection, the Office Action cited Schneier as the primary reference. Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. § 103(a).

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Applicant respectfully submits that Schneier fails to teach or suggest all of the limitations of the independent claims 1, 10, and 20, for the reasons explained above. Accordingly, Schneier fails to teach or suggest all of the limitations of any claims depending from independent claim 1, 10, or 20.

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In view of the foregoing, Applicant respectfully submits that the claims are allowable over the cited art, and requests that a Notice of Allowance issue for these claims. If the Examiner has any questions or issues that can be resolved via telephone, the Examiner is invited to contact the undersigned attorney at 512-473-2550.

Respectfully submitted,



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